

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JIMMIE HARDAWAY, JR., LARRY A. BOYD,
FIREARMS POLICY COALITION, INC., and
SECOND AMENDMENT FOUNDATION

Plaintiffs,

v.

No. 22-cv-00771 (JLS)

STEVEN A. NIGRELLI, in his official capacity as Superintendent of the New York State Police, BRIAN D. SEAMAN, in his official capacity as District Attorney for the County of Niagara, and JOHN J. FLYNN, in his official capacity as District Attorney for the County of Erie,

Defendants.



WHEREAS, the parties hereto have agreed to settle this action pursuant to the provisions of Rule 41(a) of the Federal Rules of Civil Procedure; and

WHEREAS, no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the above-entitled action and the same hereby is discontinued on the merits but without prejudice as to future related claims, and without costs to either party as against the other; and

WHEREAS, the New York State Police (NYSP) has approved the settlement of the outstanding fee dispute in this action under the terms and conditions set forth below; and

WHEREAS, defendant, KEVIN BRUEN, STEVEN NIGRELLI AND/OR DOMINICK CHIUMENTO, do not admit any wrongdoing but approves settlement of the parties' fee dispute for the convenience of all interested parties; and

WHEREAS, the parties hereto have entered into this Stipulation of Settlement and Discontinuance, in connection with the settlement of this action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for all of the parties in the above-entitled action as follows:

1. That no person not a party has an interest in the subject matter, the above-entitled action be, and the same hereby is, settled upon payment of the sum of One Hundred Fifty Thousand Dollars (\$150,000.00), inclusive of all fees and costs, and discontinued with prejudice; payment shall be made as follows: one check to Cooper & Kirk in the amount of \$150,000.00, mailed to: Cooper & Kirk, PLLC, Attention: John Brown 1523 New Hampshire Ave., N.W., Washington, D.C. 20036.

2. In consideration of the payment of the sum set forth in paragraph 1, the plaintiff hereby releases the defendant, KEVIN BRUEN, STEVEN NIGRELLI AND/OR DOMINICK CHIUMENTO, and any and all current or former employees of NYSP, in his/her/their individual and official capacities, and his/her/their heirs, executors, administrators and assigns, and the State of New York, from any and all prior claims, liabilities and causes of action arising out of the circumstances set forth in the complaint in the above-entitled action, and all other prior causes of action and claims of liability arising out of the payment of attorneys' fees pursuant to 42 U.S.C. § 1988 set forth in the complaint in the above-entitled action.

3. That payment of the sum set forth in paragraph 1 is subject to the approvals of all appropriate State officials in accordance with the provisions for indemnification under Public Officers Law Section 17. Plaintiff and plaintiff's counsel agree to execute and deliver to counsel for defendants all necessary or appropriate vouchers and other documents requested with respect to such payment.

4. That payment of the amounts referenced in paragraph 1 will be made within one hundred and twenty (120) days after the approval of this Stipulation of Settlement by the Court and receipt by defendant's counsel of a copy of the so-ordered stipulation along with any further documentation as may be required.

5. That in the event that the aforementioned approvals in paragraph 3 of all appropriate State officials in accordance with the provisions for indemnification under Public Officers Law Section 17 are satisfied, but payment is not made within the 120 day period set forth herein, interest shall begin to accrue on the outstanding principal balance at the statutory rate on the 121st day after court approval.

6. That nothing contained herein shall constitute an admission by any defendant, KEVIN BRUEN, STEVEN NIGRELLI AND/OR DOMINICK CHIUMENTO, individually or in his/her/their official capacity, that any Plaintiff, Jimmy Hardaway, Jr., Larry A. Boyd, the Firearms Policy Coalition, Inc. and the Second Amendment Foundation, was deprived of any right, or that any defendant failed to perform any duty under the Constitutions, Statues, Rules, Regulations or other laws of the United States or the State of New York.

7. That this Stipulation of Settlement and Discontinuance and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be

admissible in any other action or proceeding as evidence or for any other purpose except in an action or proceeding to enforce this Stipulation of Settlement and Discontinuance.

8. The attorneys for the plaintiff, do hereby release and waive our lien for services upon the above-named plaintiff's causes of action, claim, verdict, report, judgment, determination, or settlement in favor of said plaintiff which we have thereon under and by virtue of Section 475 of the Judiciary Law or otherwise.

9. The attorneys for the plaintiff, do further represent that there are no other attorneys having a lien for services rendered to plaintiff concerning the instant proceeding pursuant to the provisions of Section 475 of the Judiciary Law or otherwise.

10. The parties agree that payment of the sum set forth in Paragraph 1 above shall satisfy all attorney fees and costs due and owing to the plaintiffs in this matter.

11. In confirmation of the agreement herein, the undersigned attorneys for the parties to this action set their signatures below.

Dated: Tysons, Virginia
April 11, 2024



Nicolas Rotsko
Attorney for Plaintiffs
FLUET
1751 Pinnacle Drive, Suite 1000
Tysons, VA 22102

Dated: Washington, D.C.
April 11, 2024

/s/ David H. Thompson

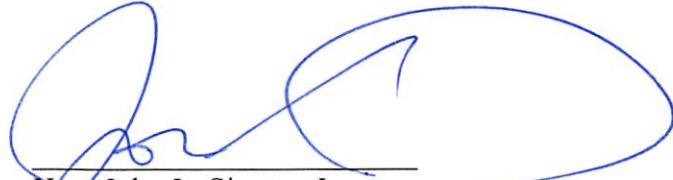
David H. Thompson
Attorney for Plaintiffs
Cooper & Kirk
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Dated: Buffalo, New York
April 11, 2024

LETITIA JAMES
Attorney General of the State of New York
Attorney for Defendant
KEVIN BRUEN, STEVEN NIGRELLI
AND/OR DOMINICK CHIUMENTO
BY:

Ryan L. Belka, Esq.
Ryan Belka, AAG
Assistant Attorney General, Of Counsel
350 Main St., Suite 300A
Buffalo, NY 14202

SO ORDERED:


Hon. John L. Sinatra, Jr.
United States District Judge

4-15-24